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P23525.A04



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Shinobu UEZONO et al.

Group Art Unit: 3662

Appln. No. : 10/606,224

Examiner: Brian Andrea

Filed : June 26, 2003

Confirmation No.: 3758

For : SURVEYING SYSTEM

**RE-SUBMISSION OF PREVIOUSLY FILED RESPONSE
TO RESTRICTION REQUIREMENT**

Commissioner of Patents
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Sir:

On September 20, 2004, the U.S. Patent and Trademark Office issued a Restriction Requirement in the above-captioned application. On October 19, 2004, Applicants timely filed a Response To Restriction Requirement With Traverse, in which Applicants elected the invention identified by the Examiner as Group I, including claims 1-6.

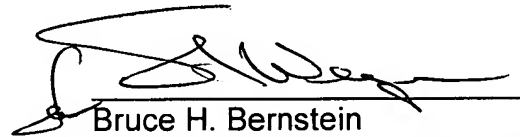
On May 31, 2005, Examiner Alsomiri telephoned Applicants' U.S. counsel to inquire on the status of this application. The Examiner was informed that a response had been timely filed with the U.S. Patent and Trademark Office on October 19, 2004. Examiner Alsomiri indicated that there is no record of the submission of this response.

Accordingly, Applicants herewith submit an executed copy of the Response To Restriction Requirement With Traverse that was filed with the U.S. Patent and Trademark Office, along with a copy of the date-stamped filing receipt evidencing the timely filing of the response on October 19, 2004.

As a response to the restriction requirement was timely filed and the loss thereof appears to be the fault of the U.S. Patent and Trademark Office, the Examiner is respectfully requested to ensure that the Response To Restriction Requirement With Traverse is entered, that this application remains pending, and further, that the patent term of a patent issuing from this application will not be reduce on the ground that an election was not timely filed.

Should the Examiner have any questions, he is requested to contact the undersigned.

Respectfully submitted,
Shinobu UEZONO et al.



Bruce H. Bernstein
Reg. No. 29,027

Steven Wegman
Reg. No. 31,438

June 1, 2005
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Enclosures:

Response To Restriction Requirement With Traverse (executed copy)
Filing Receipt dated stamped October 19, 2004 (copy)



GREENBLUM & BERNSTEIN, P.L.C.
Intellectual Property Causes
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191



10/19/2004

File In: Milroy

The Patent Office Date stamp hereon is an acknowledgement that, on the date indicated, the Patent Office received the following:

(X) Response to Restriction Requirement with Transmittal

- | | |
|------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <input type="checkbox"/> Amendment | <input type="checkbox"/> Claim of Priority & Certified Copy of |
| <input type="checkbox"/> Executed Assignment and cover letter | |
| <input type="checkbox"/> by facsimile | |
| <input type="checkbox"/> Executed S.E.S. <input type="checkbox"/> S.E.S. Assertion | <input type="checkbox"/> Declaration <input type="checkbox"/> Supplemental |
| <input type="checkbox"/> Req. for Ext. of Time | <input type="checkbox"/> New <input type="checkbox"/> Unexecuted |
| <input type="checkbox"/> Fee Filing <input type="checkbox"/> | <input type="checkbox"/> Executed by facsimile |
| Recording <input type="checkbox"/> | |
| Issue <input type="checkbox"/> | <input checked="" type="checkbox"/> Transmittal Letter |
| Extension <input type="checkbox"/> | <input type="checkbox"/> Patent Application |
| | <input type="checkbox"/> Provisional <input type="checkbox"/> Reexam |
| <input type="checkbox"/> Fee Transmittal | <input type="checkbox"/> Reissue <input type="checkbox"/> Design |
| <input type="checkbox"/> Maintenance Fee Payment | <input type="checkbox"/> Continuation <input type="checkbox"/> CIP |
| <input type="checkbox"/> PTOL-85B Issue Fee | _____ pages (w/abstract) |
| <input type="checkbox"/> Letter to Draftsman | _____ claims _____ independent |
| <input type="checkbox"/> Design Patent Application Transmittal | _____ sheets of drawings |
| <input type="checkbox"/> Utility Patent Application Transmittal | _____ figures |
| <input type="checkbox"/> Provisional Application Cover Sheet | <input type="checkbox"/> I.D.S. form PTO-1449 & |
| <input type="checkbox"/> Continued Prosecution Application | References <input type="checkbox"/> as attached |
| (CPA) Request Transmittal | <input type="checkbox"/> as listed on reverse |
| <input type="checkbox"/> Request for Continued Examination (RCE) | <input type="checkbox"/> One self-addressed postcard |
| including Submission | <input type="checkbox"/> Certification under 1.97(e) |
| <input type="checkbox"/> Cover Letter | <input type="checkbox"/> Certificate of Mailing (C-O-M) |
| <input type="checkbox"/> Check No. _____ for \$ | <input type="checkbox"/> Returned Envelope |
| <input type="checkbox"/> Rule 53b and 53f Letter for | |
| Unexecuted Application | |

In the matter of : SURVEYING SYSTEM

Applicant : Shinobu UEZONO et al.

Application No. : 10/606,224

Filed : 6/26/2003

Patent No. :

Issued :

Docket : P23525 sw



GREENBLUM & BERNSTEIN, P.L.
Intellectual Property Causes
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Attorney Docket No. P23525

In re application of : Shinobu UEZONO et al.

Application No. : 10/606,224

Filed : June 26, 2003

For : SURVEYING SYSTEM

Mail Stop Amendment

Group Art Unit : 3662

Examiner : Brian Andrea

Mail Stop Amendment

Commissioner for Patents

U.S. Patent and Trademark Office

220 20th Street S.

Customer Window

Crystal Plaza Two, Lobby, Room 1B03

Arlington, VA 22202

Sir:

Transmitted herewith is a **Response to Restriction Requirement with Traverse** in the above-captioned application.

☐ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

☐ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

☐ A Request for Extension of Time.

☒ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 12	*20	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 2	**3	0	x 44=	\$	x 88=	\$0.00
Multiple Dependent Claims Presented			+150=	\$	+300=	\$0.00
Extension Fees for ____ Month(s)				\$		\$0.00
Total:				\$	Total:	\$0.00

* If less than 20, write 20

** If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$ ____.

☐ A check in the amount of \$ ____ to cover the filing/extension fee is included.

☒ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

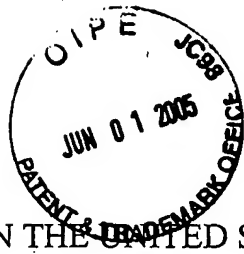
☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).



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Group Art Unit: 3662

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RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE

Commissioner of Patents
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Sir:

ELECTION

In response to the Examiner's restriction requirement dated September 20, 2004, in which the shortened statutory period for responding thereto runs to October 20, 2004, Applicants elect, with traverse, the invention identified by the Examiner as Group I, a surveying device that searches for and obtains measurements for points in an image, including claims 1-6.

TRAVERSE

Applicants respectfully traverse the Examiner's restriction requirement.

Although the Examiner's Office action identifies two independent and distinct

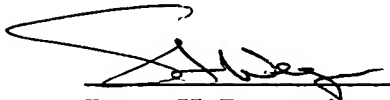
inventions, Applicants respectfully request that each of the two inventions, nevertheless, be examined in the instant application, pursuant to the guidelines set forth in M.P.E.P. §803. That is, the Examiner is respectfully requested to reconsider his requirement and find that there would not appear to be a "serious burden" on the Office in examining claims directed to the non-elected invention, viz., claims 7-12, which would remain withdrawn from consideration if the restriction requirement is maintained.

Chapter 800 of the M.P.E.P. sets forth the policy by which Examiners are guided in requiring restriction under 35 U.S.C. §121. Section 803 states that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Applicants submit that the search for the inventions identified by the Examiner would be coextensive. Therefore, when the Examiner performs a search for Invention I, it would not be a serious burden to continue the examination of Invention II, directed to a surveying system that calculates a relation between measurement coordinates and an image coordinate.

Therefore, due to an apparent lack of a serious burden, as recognized in M.P.E.P. 803 as being a prerequisite to a proper restriction requirement, and due to the fact that the Office action fails to address the issue of a serious burden, Applicants respectfully request that the restriction requirement be withdrawn.

Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully submitted,
Shinobu UEZONO et al.

 6/1/05

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October 18, 2004
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